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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,695	10/29/2003	Andrew C. Kesling	815-1057.C	5076

7590 03/18/2008
LLOYD L. ZICKERT
79 West Monroe Street
Chicago, IL 60603

EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/695,695	Applicant(s) KESLING, ANDREW C.	
	Examiner Melba Bumgarner	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. It is noted that applicant asserts that the amendment of October 19, 2007 introduced nominal amendments to the claims in making them consistent with one another and more clearly defining the invention, and has been interpreted as such. The request for reconsideration of February 13, 2008 has been entered and the following is an action on the merits.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (3,345,745) in view of Lemchen (5,890,892). Muller discloses an orthodontic appliance including a metal appliance body 7 (column 6 line 4) having a buccal-labial archwire receiving side and a lingual side, and a light-permeable polymer resin bonding base 16 (column 2 line 55) molded onto the lingual side of the body such that at least a part of the body is embedded in the base (column 2 line 14) and includes an integral peripheral lip overlapping part of the body. It is known to one of ordinary skill in the art that the disclosed resinous polymers are light-permeable. Lemchen teaches orthodontic polymer resin (column 4 lines 12, 16) the same as disclosed by Muller that is light, heat or chemically cured as known in the art. It would have been obvious to one of ordinary skill in the art to have the curing polymer resin to be heat or light-curing polymer

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resin. The appliance is capable of shipment to a user. Muller shows resin of acrylic or epoxy and the appliance is a bracket. Muller discloses a method of making the orthodontic appliance comprising making the appliance body and molding the polymer resin to the lingual side of the body, the appliance having the features of above.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muller in view of Lemchen and further in view of Kesling (5,263,859). The modified appliance of Muller and Lemchen shows the limitations as described above; however, they do not show a first groove 70 formed in the body and a second groove 71 formed in the base coacting with the first groove to define an opening. Kesling teaches an orthodontic appliance comprising the grooves as claimed (figure 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the appliance to have the opening of Kesling in order to be able to support auxiliaries in view of Kesling.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriquez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Melba Bumgarner/
Primary Examiner, Art Unit 3732